



HON. SYLVIA O. HINDS-RADIX  
Corporation Counsel

GREGORY ACCARINO  
Senior Counsel  
phone: (212) 356-1945  
gaccari@law.nyc.gov

THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NY 10007

October 19, 2023

**BY ECF**

Honorable J. Paul Oetken  
United States District Judge  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

Re: Kwaine Thompson v. City of New York, et al.  
22 Civ. 1458 (JPO) (KHP)

Your Honor:

I am a Senior Counsel in the office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney assigned to represent defendants City of New York, Katrese Brumfield, Jessica Simmons, Debbie Palmer-Campbell, Tiffany Francis, Chandra Davis, and Tony Montague (“defendants”) in the above-referenced matter. The defendants write to respectfully request that the Court extend the deadline to file a motion for summary judgment until November 28, 2023, two weeks after the parties’ November 14, 2023 status conference before Hon. Katherine H. Parker. See ECF No. 75, Order, October 17, 2023. This is the defendants’ first such request and does not affect any other deadlines. The undersigned was unable to obtain the position of plaintiff, who is proceeding *pro se* and incarcerated at Mid-State Correctional Facility, for the reasons detailed below.

By way of background, plaintiff brings this action, pursuant to 42 U.S.C. § 1983, alleging that from September 2020 until August 2021, while in the custody of the New York City Department of Correction (“DOC”), he was sexually assaulted by various female DOC officers, while others failed to report said sexual assaults.

On October 16, 2023 discovery closed in this matter and the Hon. Katherine H. Parker scheduled a status conference for the next day, October 17, 2023. See ECF No. 73. Order. October 10, 2023; and ECF 65, Order, August 7, 2023. The undersigned confirmed plaintiff’s availability for the conference with the facility. However, at the time of the conference, the facility unexpectedly informed the undersigned that plaintiff was unable to participate in the Court conference because he was in transport related to another matter and would not return to the facility

for a minimum of one week. The undersigned informed Judge Parker's Court Deputy, and the October 17, 2023 conference was adjourned to November 14, 2023. See ECF No. 75, Order, October 17, 2023.

Your Honor's individual rules state "[u]less otherwise ordered by the Court, any motion for summary judgment shall be filed within 14 days after the close of discovery," which would be October 30, 2023. See Point 12, Individual Rules and Practices in Civil *Pro Se* Cases, Hon. J. Paul Oetkin. In light of the unexpected adjournment of the October 17, 2023 status conference until November 14, 2023, the defendants respectfully request the Court extend the deadline for defendants to file a motion for summary judgment until November 28, 2023, fourteen (14) days after the November 14, 2023 status conference. The defendants were unable to obtain plaintiff's position as he was unexpectedly transported to another location and may not return to his facility, where he can be contacted, until just before defendants' summary judgment motion would be due.

Furthermore, the defendants respectfully request this additional time because plaintiff was deposed on October 16, 2023 and the defendants have not yet received the transcript of that deposition. Once the defendants receive plaintiff's deposition transcript, it will be mailed to plaintiff. Plaintiff would then be entitled a period of thirty (30) days to review. The requested extension of time would allow time for both parties to receive and review plaintiff's deposition transcript, which defendants anticipate will be heavily relied upon in dispositive motion practice.

Accordingly, the defendants respectfully request that the Court extend the deadline to file a motion for summary judgment until November 28, 2023, two weeks after the parties' November 14, 2023 status conference.

Respectfully submitted,

/s/ Gregory J.O. Accarino  
Gregory J.O. Accarino  
*Senior Counsel*  
Special Federal Litigation Division

Cc: **By U.S. Mail:**  
Kwaine Thompson  
Plaintiff *Pro Se*  
#23B0962  
Mid-State Correctional Facility  
P.O. Box 2500  
Marcy, New York 13403

**DECLARATION OF SERVICE BY MAIL**

I, Gregory J.O. Accarino, declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that on October 19, 2023, I served the annexed:

- COURT LETTER TO EXTEND DEADLINE TO FILE MOTION FOR SUMMARY JUDGMENT, DATED October 19, 2023

upon the following Plaintiff *Pro Se* by serving copies of the same to be deposited, enclosed in a first class postpaid properly addressed wrapper, in a post office/official depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to Plaintiff at the address set forth below, being the address designated by Plaintiff for that purpose:

Kwaine Thompson  
Plaintiff *Pro Se*  
#23B0962  
Mid-State Correctional Facility  
P.O. Box 2500  
Marcy, New York 13403

Dated: New York, New York  
October 19, 2023

/s/ Gregory J.O. Accarino  
Gregory J.O. Accarino  
Senior Counsel  
Special Federal Litigation Division